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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,582	02/10/2004	Fabio Formenti	P/332-34	3035

2352 7590 12/06/2004

OSTRÖLENK FABER GERB & SOFFEN  
1180 AVENUE OF THE AMERICAS  
NEW YORK, NY 100368403

EXAMINER

SAFAVI, MICHAEL

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 12/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/776,582

Applicant(s)

FORMENTI, FABIO

Examiner

M. Safavi

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 14-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/10/04
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Marsack. Marsack discloses, Fig. 2, a resilient mattress comprising a latex foam body 1 or 1/2 and a plurality of resilient units 5/6 spaced within the latex foam body such that portions of the latex foam body are arranged between adjacent resilient units to firmly maintain the resilient units within the latex foam body with each resilient unit including a coiled spring 5 individually enclosed within a respective envelope 6 impermeable to the latex foam body. Any portion of the Marsack mattress can be considered a “differentiated load bearing zone” by virtue of that portion lying or extending along an area of the mattress different from other portions of the mattress. Thus, the resilient units in “each load bearing zone” are selected in accordance with the weight of a human body portion expected to rest on the load bearing zone by virtue of their having any capacity to support any portion of a human body. With Marsack the “characteristics” are inherently created by the form of the coil spring, as well as the dimension/diameter, the

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number of coils, and material used to form the coil spring. The Marsack mattress, as well as any given mattress, defines "respective load bearing bands" that extend transversely to a longitudinal extension of the latex foam body. In other words, any transverse section or band of the mattress serves to meet both "differentiated load bearing zone" as well as "load bearing bands". Thus, Marsack meets the language of each of claims 6-8. A plurality of first channels 9 or 10, for example, are respectively assigned to and aligned with the plurality of resilient units 5/6 with each of the first channels 9 or 10 extending perpendicularly from a surface of the latex foam body to the assigned resilient unit.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marsack in view of Stalter, Sr.

Stalter, Sr. teaches formation and utilization of channels 10 extending perpendicularly from a surface of the respective foam body to an assigned resilient unit. A side channel can be seen at 11.

To have formed the Marsack mattress with channels extending perpendicularly from a surface of the foam body 1/2 to an assigned resilient unit, (as by extending a

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channel through portion 2 of the latex foam mattress to and towards a respective resilient unit 5/6), thus serving to establish any specifically desired softness and resiliency of the Marsack mattress, would have been obvious to one having ordinary skill in the art at the time the invention was made as taught by Stalter, Sr.

Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marsack in view of Farley.

Farley teaches, Figs. 3-6, formation and utilization of channels 44, 46, 48, 50, 51 extending perpendicularly from a surface of the respective foam body including blind channels of varying extent. To have formed the Marsack mattress with blind channels extending perpendicularly from a surface of the foam body 1/2 (as by extending channel 11 of Marsack through only a portion of the latex foam mattress), as well as provide the Marsack mattress with blind channels extending from a side or sides of the foam body 1, (as by extending any of channels 9 or 10 of Marsack through only a portion of the latex foam mattress), thus serving to establish any specifically desired softness and resiliency of the Marsack mattress, would have been obvious to one having ordinary skill in the art at the time the invention was made as taught by Farley.

Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marsack in view of Stalter, Sr. as applied to claims 9 and 10 above, and further in view of Farley.


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Farley teaches, Figs. 3-6, formation and utilization of channels 44, 46, 48, 50, 51 extending perpendicularly from a surface of the respective foam body including blind channels of varying extent. To have formed the modified Marsack mattress with blind channels extending perpendicularly from a surface of the foam body 1/2 (as by extending channel 11 of Marsack through only a portion of the latex foam mattress), as well as provide the modified Marsack mattress with blind channels extending from a side or sides of the foam body 1, (as by extending any of channels 9 or 10 of Marsack through only a portion of the latex foam mattress), thus serving to establish any specifically desired softness and resiliency of the modified Marsack mattress, would have been obvious to one having ordinary skill in the art at the time the invention was made as taught by Farley.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Safavi whose telephone number is (703) 308-2481. The examiner can normally be reached on Mon.-Thur., 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on (703) 308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

M. Safavi  
November 28, 2004



MICHAEL SAFAVI  
PRIMARY EXAMINER  
ART UNIT 354